

1 AN ACT relating to tax incentives offered through the Kentucky Business  
2 Investment Program.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 154.32-010 is amended to read as follows:

- 5 (1) "Activation date" means the date established in the tax incentive agreement that is  
6 within two (2) years of final approval;
- 7 (2) "Advance disbursement" means the disbursement of incentives prior to the  
8 activation date;
- 9 (3) "Affiliate" has the same meaning as in KRS 154.48-010 and, in addition, shall  
10 include two (2) or more limited liability companies if the same persons own more  
11 than fifty percent (50%) of the capital interest or are entitled to more than fifty  
12 percent (50%) of the capital profits in the limited liability companies;
- 13 (4) "Agribusiness" means the processing of raw agricultural products, including but not  
14 limited to timber and industrial hemp, or the performance of value-added functions  
15 with regard to raw agricultural products;
- 16 (5) "Approved company" means an eligible company that has received final approval to  
17 receive incentives under this subchapter;
- 18 (6) "Approved costs" means the amount of eligible costs approved by the authority at  
19 final approval;
- 20 (7) "Authority" means the Kentucky Economic Development Finance Authority  
21 established by KRS 154.20-010;
- 22 (8) "Capital lease" means a lease classified as a capital lease by the Statement of  
23 Financial Accounting Standards No. 13, Accounting for Leases, issued by the  
24 Financial Accounting Standards Board, November 1976, as amended;
- 25 (9) "Commonwealth" means the Commonwealth of Kentucky;
- 26 (10) "Confirmed approved costs" means:
- 27 (a) For owned economic development projects, the documented eligible costs

1 incurred on or before the activation date; or

2 (b) For leased economic development projects:

3 1. The documented eligible costs incurred on or before the activation date;

4 and

5 2. Estimated rent to be incurred by the approved company throughout the  
6 term of the tax incentive agreement.

7 For both owned and leased economic development projects, "confirmed approved  
8 costs" may be less than approved costs, but shall not be more than approved costs;

9 (11) "Department" means the Department of Revenue;

10 (12) "Economic development project" means:

11 (a) 1. The acquisition, leasing, or construction of a new facility; or

12 2. The acquisition, leasing, rehabilitation, or expansion of an existing  
13 facility; and

14 (b) The installation and equipping of the facility;

15 by an eligible company. "Economic development project" does not include any  
16 economic development project that will result in the replacement of facilities  
17 existing in the Commonwealth, except as provided in KRS 154.32-060;

18 (13) (a) "Eligible company" means any corporation, limited liability company,  
19 partnership, limited partnership, sole proprietorship, business trust, or any  
20 other entity with a proposed economic development project that is engaged in  
21 or is planning to be engaged in one (1) or more of the following activities  
22 within the Commonwealth:

23 1. An operational activity~~[Manufacturing]; or~~

24 2. An infrastructure activity for taxable years beginning on or after  
25 January 1, 2017, but before January 1, 2022~~[Agribusiness;~~

26 ~~3. Nonretail service or technology; or~~

27 ~~4. National or regional headquarters operations, regardless of the~~

1                   ~~underlying business activity of the company~~.

2           (b) "Eligible company" does not include companies where the primary activity to  
3           be conducted within the Commonwealth is forestry, fishing, mining, coal or  
4           mineral processing, the provision of utilities,~~construction,~~ wholesale trade,  
5           retail trade,~~real estate,~~ rental and leasing, educational services,  
6           accommodation and food services, or public administration services;

7   (14) "Eligible costs" means:

8           (a) For owned economic development projects:

- 9                   1. Start-up costs;
- 10                  2. Obligations incurred for labor and amounts paid to contractors,  
11                   subcontractors, builders, and materialmen in connection with the  
12                   economic development project;
- 13                  3. The cost of acquiring land or rights in land and any cost incidental  
14                   thereto, including recording fees;
- 15                  4. The cost of contract bonds and of insurance of all kinds that may be  
16                   required or necessary for completion of an economic development  
17                   project which is not paid by a contractor or otherwise provided for;
- 18                  5. All costs of architectural and engineering services, including test  
19                   borings, surveys, estimated plans and specifications, preliminary  
20                   investigations, and supervision of construction, as well as for the  
21                   performance of all the duties required for construction of the economic  
22                   development project;
- 23                  6. All costs which are required to be paid under the terms of any contract  
24                   for the economic development project;
- 25                  7. All costs incurred for construction activities, including site tests and  
26                   inspections; subsurface site work; excavation; removal of structures,  
27                   roadways, cemeteries, and other surface obstructions; filling, grading,

1 and providing drainage and storm water retention; installation of utilities  
2 such as water, sewer, sewage treatment, gas, electric, communications,  
3 and similar facilities; off-site construction of utility extensions to the  
4 boundaries of the real estate; construction and installation of railroad  
5 spurs as needed to connect the economic development project to existing  
6 railways; or similar activities as the authority may determine necessary  
7 for construction of the economic development project; and

8 8. All other costs of a nature comparable to those described above; and

9 (b) For leased economic development projects:

10 1. Start-up costs; and

11 2. Fifty percent (50%) of the estimated annual rent for each year of the tax  
12 incentive agreement.

13 Notwithstanding any other provision of this subsection, for economic development  
14 projects that are not in enhanced incentive counties, the cost of equipment eligible  
15 for recovery as an eligible cost shall not exceed twenty thousand dollars (\$20,000)  
16 for each new full-time job created as of the activation date;

17 (15) "Employee benefits" means nonmandated payments by an approved company for its  
18 full-time employees for health insurance, life insurance, dental insurance, vision  
19 insurance, defined benefits, 401(k), or similar plans;

20 (16) "Enhanced incentive counties" means counties certified by the authority pursuant to  
21 KRS 154.32-050;

22 (17) "Final approval" means the action taken by the authority authorizing the eligible  
23 company to receive incentives under this subchapter;

24 (18) "Full-time job" means a job held by a person who:

25 (a) Is a Kentucky resident subject to the Kentucky individual income tax imposed  
26 by KRS 141.020; and

27 (b) Is required to work a minimum of thirty-five (35) hours per week;

- 1 (19) "Incentives" means the incentives available under this subchapter, as listed in  
2 Section 2 of this Act~~[KRS 154.32-020(3)]~~;
- 3 (20) "Infrastructure activity" means the development of the infrastructure, including  
4 the erection of buildings, necessary to facilitate the location of businesses in the  
5 Commonwealth that are engaged in:  
6 (a) Manufacturing;  
7 (b) Agribusiness;  
8 (c) Nonretail service or technology; or  
9 (d) National or regional headquarters operations, regardless of the underlying  
10 business activity of the company;
- 11 (21) "Job target" means the annual average number of new full-time jobs that the  
12 approved company commits to create and maintain at the economic development  
13 project, which shall not be less than ten (10) new full-time jobs;
- 14 (22)~~[(24)]~~ "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- 15 (23)~~[(22)]~~ "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- 16 (24)~~[(23)]~~ "Lease agreement" means an agreement between an approved company and an  
17 unrelated entity conveying the right to use property, plant, or equipment, the terms  
18 of which reflect an arms' length transaction. "Lease agreement" does not include a  
19 capital lease;
- 20 (25)~~[(24)]~~ "Leased project" means an economic development project site occupied by an  
21 approved company pursuant to a lease agreement;
- 22 (26)~~[(25)]~~ "Loan agreement" means the agreement between the authority and a  
23 preliminarily approved company establishing the terms and conditions of an  
24 advance disbursement;
- 25 (27)~~[(26)]~~ "Manufacturing" means any activity involving the processing, assembling, or  
26 production of any property, including the processing resulting in a change in the  
27 conditions of the property and any activity related to the processing, assembling, or

1 production of property. "Manufacturing" also includes storage, warehousing,  
2 distribution, and office activities related to the manufacturing activity;

3 ~~(28)~~~~(27)~~ "Minimum wage target" means the average minimum wage amount that the  
4 approved company commits to meet for all new full-time jobs created and  
5 maintained as a result of the economic development project, which shall not be less  
6 than:

7 (a) One hundred twenty-five percent (125%) of the federal minimum wage in  
8 enhanced incentive counties; or

9 (b) One hundred fifty percent (150%) of the federal minimum wage in all other  
10 counties;

11 ~~(29)~~~~(28)~~ (a) "Nonretail service or technology" means any activity where:

12 1. Service or technology is:

13 a. Provided predominantly outside the Commonwealth; and

14 b. Designed to serve a multistate, national, or international market; or

15 2. Service or technology is provided by a national or regional headquarters  
16 as a support to other business activities conducted by the eligible  
17 company.

18 (b) "Nonretail service or technology" includes but is not limited to call centers,  
19 centralized administrative or processing centers, telephone or Internet sales  
20 order or processing centers, distribution or fulfillment centers, data processing  
21 centers, research and development facilities, and other similar activities;

22 **(30) "Operational activity" means one (1) or more of the following activities within**  
23 **the Commonwealth:**

24 **(a) Manufacturing;**

25 **(b) Agribusiness;**

26 **(c) Nonretail service or technology; or**

27 **(d) National or regional headquarters operations, regardless of the underlying**

1                   **business activity of the company;**

2    ~~(31)~~~~(29)~~ "Owned project" means an economic development project owned in fee  
3           simple by the approved company or an affiliate, or possessed by the approved  
4           company or an affiliate pursuant to a capital lease;

5    ~~(32)~~~~(30)~~ "Preliminary approval" means the action taken by the authority preliminarily  
6           approving an eligible company for incentives under this subchapter;

7    ~~(33)~~~~(31)~~ "Rent" means the actual annual rent or fee paid by an approved company  
8           under a lease agreement;

9    ~~(34)~~~~(32)~~ "Start-up costs" means costs incurred to furnish and equip a facility for an  
10          economic development project, including costs incurred for:

11         (a) Computers, furnishings, office equipment, manufacturing equipment, and  
12             fixtures;

13         (b) The relocation of out-of-state equipment; and

14         (c) Nonrecurring costs of fixed telecommunications equipment;

15          as certified to the authority in accordance with KRS 154.32-030;

16    ~~(35)~~~~(33)~~ "Tax incentive agreement" means the agreement entered into pursuant to KRS  
17          154.32-040 between the authority and an approved company; and

18    ~~(36)~~~~(34)~~ "Term" means the period of time for which a tax incentive agreement may be  
19          in effect, which shall not exceed fifteen (15) years for an economic development  
20          project located in an enhanced incentive county, or ten (10) years for an economic  
21          development project not located in any other county.

22          ➔Section 2. KRS 154.32-020 is amended to read as follows:

23         (1) The purposes of this subchapter are:

24             (a) ~~To provide incentives for eligible companies and to~~ encourage the location  
25                 or expansion of manufacturing facilities, agribusiness operations, nonretail  
26                 service or technology facilities, and regional or national corporate  
27                 headquarters in the Commonwealth to advance the public purposes of:

1. Creation of new jobs that, but for the incentives offered by the authority, would not exist within the Commonwealth;
  2. Creation of new sources of tax revenues for the support of public services provided by the Commonwealth; and
  3. Improvement in the quality of life for Kentucky citizens through the creation of sustainable jobs with higher salaries; and
- (b) To provide enhanced incentives for companies that locate in enhanced incentive counties in recognition of the depressed economic conditions in those counties and the increased need for the growth and development caused by the depressed economic conditions.
- (2) (a) ~~[To qualify for the incentives provided by subsection (3) of this section, ]~~An approved company **that is engaged in or planning to be engaged in one (1) or more operational activities may qualify for the incentives provided by this subsection. To qualify, the approved company** shall:
1. Incur eligible costs of at least one hundred thousand dollars (\$100,000);
  2. Create at least ten (10) new full-time jobs and maintain an annual average number of at least ten (10) new full-time jobs; and
  3. a. Pay at least ninety percent (90%) of all new full-time employees whose jobs were created as a result of the economic development project a minimum wage of at least one hundred twenty-five percent (125%) of the federal minimum wage in enhanced incentive counties, and one hundred fifty percent (150%) of the federal minimum wage in other counties throughout the term of the economic development project; and
  - b. Provide employee benefits for all new full-time jobs equal to at least fifteen percent (15%) of the minimum wage target established by the tax incentive agreement. If the eligible company does not



1 provide employee benefits equal to at least fifteen percent (15%)  
2 of the minimum wage target established by the tax incentive  
3 agreement, the eligible company may still qualify for incentives if  
4 it provides the full-time employees hired as a result of the  
5 economic development project total hourly compensation equal to  
6 or greater than one hundred fifteen percent (115%) of the  
7 minimum wage target established in the tax incentive agreement  
8 through increased hourly wages combined with employee benefits.

- 9 (b) To qualify for the advance disbursement provided by KRS 154.32-080, an  
10 approved company shall commit to meeting the job and wage requirements  
11 established by paragraph (a) of this subsection, and shall provide  
12 documentation indicating that the proposed economic development project  
13 will require investment of at least five hundred million dollars  
14 (\$500,000,000).

15 ~~(c)(3)}~~ The following incentives are available under this subsection ~~[subchapter~~  
16 ~~are as follows]~~:

17 1.(a) Tax credits of up to one hundred percent (100%) of the Kentucky  
18 income tax imposed under KRS 141.020 or 141.040 and the limited  
19 liability entity tax imposed under KRS 141.0401 on the income,  
20 Kentucky gross profits, or Kentucky gross receipts of the approved  
21 company generated by or arising from the economic development  
22 project, as set forth in KRS 141.415 and 154.32-070;

23 2.(b) Authorization for the approved company to impose a wage  
24 assessment against the gross wages of each new employee subject to the  
25 Kentucky income tax as provided in KRS 154.32-090; and

26 3.(c) For economic development projects with an investment of more  
27 than five hundred million dollars (\$500,000,000), an advance

disbursement as provided in KRS 154.32-080.

**(3) (a) An approved company that is engaged in or planning to be engaged in an infrastructure activity may qualify for the incentive provided by this subsection. To qualify, the approved company shall:**

**1. Have documentation of official action taken by a local governmental entity detailing the manner and level of local support and contribution; and**

**2. Incur eligible costs of at least one million dollars (\$1,000,000).**

**(b) For taxable years beginning on or after January 1, 2017, but before January 1, 2022, an approved company may be eligible for a tax credit of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040 and the limited liability entity tax imposed under KRS 141.0401.**

(4) The General Assembly hereby finds and declares that the authority granted in this subchapter and the purposes accomplished hereby are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of economic development projects within the Commonwealth is of paramount importance to the economic well-being of the Commonwealth.

➔Section 3. KRS 154.32-070 is amended to read as follows:

**(1) (a) This subsection shall apply to an approved company, with an economic development project, that is engaged in or is planning to be engaged in one (1) or more operational activities within the Commonwealth.**

**(b)** For taxable years beginning after December 31, 2009, an approved company may be eligible for a credit of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, that would otherwise

1 be owed by the approved company to the Commonwealth for the approved  
2 company's taxable year, on the income, Kentucky gross profits, or Kentucky  
3 gross receipts of the approved company generated by or arising from the  
4 economic development project.

5 ~~(c)~~~~(2)~~ The credit allowed the approved company shall be applied against both  
6 the income tax imposed by KRS 141.020 or 141.040, and the limited liability  
7 entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS  
8 141.0205, for the taxable year for which the tax return of the approved  
9 company is filed, subject to the annual maximum set forth in the tax incentive  
10 agreement. Any credit not used in the year in which it was first available may  
11 be carried forward to subsequent years, provided that no credit may be carried  
12 forward beyond the term of the tax incentive agreement.

13 ~~(d)~~~~(3)~~ The approved company shall not be required to pay estimated tax  
14 payments as prescribed in KRS 141.042 on the Kentucky taxable income,  
15 Kentucky gross receipts, or Kentucky gross profits generated by or arising  
16 from the eligible project.

17 ~~(e)~~~~(4)~~ The credit provided by this section shall be determined as provided in  
18 KRS 141.415.

19 ~~(f)~~~~(5)~~ The amount of incentives allowed in any year shall not exceed the lesser  
20 of the tax liability of the approved company related to the economic  
21 development project for that year or the annual maximum approved costs set  
22 forth in the tax incentive agreement. The incentives shall be allowed for each  
23 fiscal year of the approved company during the term of the tax incentive  
24 agreement for which a tax return is filed by the approved company.

25 (2) (a) This subsection shall apply to an approved company, with an economic  
26 development project, that is engaged in or planning to be engaged in an  
27 infrastructure activity in the Commonwealth.

1       **(b) For taxable years beginning on or after January 1, 2017, but before**  
2       **January 1, 2022, an approved company may be eligible for a credit of up to**  
3       **one hundred percent (100%) of the Kentucky income tax imposed under**  
4       **KRS 141.020 or 141.040, and the limited liability entity tax imposed under**  
5       **KRS 141.0401.**

6       **(c) The credit allowed the approved company shall be applied against both the**  
7       **income tax imposed by KRS 141.020 or 141.040, and the limited liability**  
8       **entity tax imposed by KRS 141.0401, with credit ordering as provided in**  
9       **Section 5 of this Act, for the taxable year for which the tax return of the**  
10       **approved company is filed, subject to the annual maximum set forth in the**  
11       **tax incentive agreement. Any credit not used in the year in which it was first**  
12       **available may be carried forward to subsequent years, except that no credit**  
13       **may be carried forward beyond the term of the tax incentive agreement.**

14       ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO  
15 READ AS FOLLOWS:

16       **(1) As used in this section:**

17       **(a) "Approved company" has the same meaning as in Section 1 of this Act;**

18       **(b) "Commonwealth" has the same meaning as in Section 1 of this Act;**

19       **(c) "Economic development project" has the same meaning as in Section 1 of**  
20       **this Act;**

21       **(d) "Infrastructure activity" has the same meaning as in Section 1 of this Act**  
22       **and**

23       **(e) "Tax incentive agreement" has the same meaning as in Section 1 of this**  
24       **Act.**

25       **(2) (a) For taxable years beginning on or after January 1, 2017, but before**  
26       **January 1, 2022, an approved company, with an economic development**  
27       **project, that is engaged in or planning to be engaged in an infrastructure**

1 activity in the Commonwealth may be eligible for a credit of up to one  
2 hundred percent (100%) of the Kentucky income tax imposed under KRS  
3 141.020 or 141.040, and the limited liability entity tax imposed under KRS  
4 141.0401.

5 (b) The credit allowed the approved company shall be applied against both the  
6 income tax imposed by KRS 141.020 or 141.040, and the limited liability  
7 entity tax imposed by KRS 141.0401, with credit ordering as provided in  
8 Section 5 of this Act, for the taxable year for which the tax return of the  
9 approved company is filed, subject to the annual maximum set forth in the  
10 tax incentive agreement.

11 (c) Any credit not used in the year in which it was first available may be carried  
12 forward to subsequent years, except that no credit may be carried forward  
13 beyond the term of the tax incentive agreement.

14 ➔Section 5. KRS 141.0205 is amended to read as follows:

15 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax  
16 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of  
17 the credits shall be determined as follows:

18 (1) The nonrefundable business incentive credits against the tax imposed by KRS  
19 141.020 shall be taken in the following order:

- 20 (a) 1. For taxable years beginning after December 31, 2004, and before  
21 January 1, 2007, the corporation income tax credit permitted by KRS  
22 141.420(3)(a);  
23 2. For taxable years beginning after December 31, 2006, the limited  
24 liability entity tax credit permitted by KRS 141.0401;

25 (b) The economic development credits computed under KRS 141.347, 141.381,  
26 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, Section 6 of this  
27 Act~~[141.415]~~, 154.12-2088, and 154.27-080;

- 1 (c) The qualified farming operation credit permitted by KRS 141.412;
- 2 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 3 (e) The health insurance credit permitted by KRS 141.062;
- 4 (f) The tax paid to other states credit permitted by KRS 141.070;
- 5 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 6 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 7 (i) The tax credit for cash contributions in investment funds permitted by KRS
- 8 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 9 154.20-258;
- 10 (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
- 11 (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- 12 (l) The employer GED incentive credit permitted ~~by~~under KRS 164.0062;
- 13 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 14 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 15 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 16 (p) The clean coal incentive credit permitted by KRS 141.428;
- 17 (q) The ethanol credit permitted by KRS 141.4242;
- 18 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 19 (s) The energy efficiency credits permitted by KRS 141.436;
- 20 (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 21 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 22 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 23 (w) The food donation credit permitted by KRS 141.392;
- 24 (x) The distilled spirits credit permitted by KRS 141.389;~~and~~
- 25 (y) The angel investor credit permitted by KRS 141.396;and
- 26 (z) The Kentucky Business Investment Program infrastructure credit permitted
- 27 by Section 4 of this Act.

- 1 (2) After the application of the nonrefundable credits in subsection (1) of this section,  
2 the nonrefundable personal tax credits against the tax imposed by KRS 141.020  
3 shall be taken in the following order:
- 4 (a) The individual credits permitted by KRS 141.020(3);
  - 5 (b) The credit permitted by KRS 141.066;
  - 6 (c) The tuition credit permitted by KRS 141.069;
  - 7 (d) The household and dependent care credit permitted by KRS 141.067; and
  - 8 (e) The new home credit permitted by KRS 141.388.
- 9 (3) After the application of the nonrefundable credits provided for in subsection (2) of  
10 this section, the refundable credits against the tax imposed by KRS 141.020 shall be  
11 taken in the following order:
- 12 (a) The individual withholding tax credit permitted by KRS 141.350;
  - 13 (b) The individual estimated tax payment credit permitted by KRS 141.305;
  - 14 (c) For taxable years beginning after December 31, 2004, and before January 1,  
15 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
  - 16 (d) The certified rehabilitation credit permitted by KRS 171.3961 and  
17 171.397(1)(b); and
  - 18 (e) The film industry tax credit permitted~~allowed~~ by KRS 141.383.
- 19 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the  
20 tax imposed by KRS 141.040.
- 21 (5) The following nonrefundable credits shall be applied against the sum of the tax  
22 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)  
23 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 24 (a) The economic development credits computed under KRS 141.347, 141.381,  
25 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-  
26 2088, and 154.27-080;
  - 27 (b) The qualified farming operation credit permitted by KRS 141.412;

- 1 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 2 (d) The health insurance credit permitted by KRS 141.062;
- 3 (e) The unemployment credit permitted by KRS 141.065;
- 4 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 5 (g) The coal conversion credit permitted by KRS 141.041;
- 6 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 7 ending prior to January 1, 2008;
- 8 (i) The tax credit for cash contributions to investment funds permitted by KRS
- 9 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 10 154.20-258;
- 11 (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
- 12 (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- 13 (l) The employer GED incentive credit permitted ~~by~~under KRS 164.0062;
- 14 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 15 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 16 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 17 (p) The clean coal incentive credit permitted by KRS 141.428;
- 18 (q) The ethanol credit permitted by KRS 141.4242;
- 19 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 20 (s) The energy efficiency credits permitted by KRS 141.436;
- 21 (t) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 22 permitted by KRS 141.437;
- 23 (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 24 (v) The railroad expansion credit permitted by KRS 141.386;
- 25 (w) The Endow Kentucky credit permitted by KRS 141.438;
- 26 (x) The New Markets Development Program credit permitted by KRS 141.434;
- 27 (y) The food donation credit permitted by KRS 141.392;~~and~~



- 1 (z) The distilled spirits credit permitted by KRS 141.389; and  
 2 (z) The Kentucky Business Investment Program infrastructure credit permitted  
 3 by Section 4 of this Act.

4 (6) After the application of the nonrefundable credits in subsection (5) of this section,  
 5 the refundable credits shall be taken in the following order:

- 6 (a) The corporation estimated tax payment credit permitted by KRS 141.044;  
 7 (b) The certified rehabilitation credit permitted by KRS 171.3961 and  
 8 171.397(1)(b); and  
 9 (c) The film industry tax credit permitted by~~allowed in~~ KRS 141.383.

10 ➔Section 6. KRS 141.415 is amended to read as follows:

11 (1) As used in this section, unless the context requires otherwise:

- 12 (a) "Approved company" means:  
 13 1. The same as defined in~~KRS 154.32-010 or~~ 154.34-010; or  
 14 2. Any corporation, limited liability company, partnership, limited  
 15 partnership, sole proprietorship, business trust, or any other entity  
 16 with an economic development project, that is engaged in or is  
 17 planning to be engaged in one (1) or more operational activities in the  
 18 Commonwealth and that has received final approval to receive a tax  
 19 credit under subsection (1) of Section 3 of this Act;  
 20 (b) "Economic development project" means the same as defined in KRS 154.32-  
 21 010;  
 22 (c) "Operational activity" has the same meaning as in Section 1 of this Act;  
 23 (d) "Reinvestment project" means the same as defined in KRS 154.34-010;  
 24 (e)~~(d)~~ "Tax credit" means the tax credit allowed in KRS 154.34-120 or the  
 25 credit allowed in subsection (1) of Section 3 of this Act~~[KRS 154.32-070]~~, as  
 26 the case may be;  
 27 (f)~~(e)~~ "Kentucky gross receipts" means the same as defined in KRS 141.0401;

1                   and

2           ~~(g)~~~~(f)~~ "Kentucky gross profits" means the same as defined in KRS 141.0401.

3   (2) An approved company shall determine the income tax credit as provided in this  
4       section.

5   (3) An approved company which is an individual sole proprietorship subject to tax  
6       under KRS 141.020 or a corporation or pass-through entity treated as a corporation  
7       for federal income tax purposes subject to tax under KRS 141.040(1) shall:

8       (a) 1. Compute the tax due at the applicable tax rates as provided by KRS  
9               141.020 or 141.040 on net income as defined by KRS 141.010(11) or  
10             taxable net income as defined by KRS 141.010(14), including income  
11             from a reinvestment project or economic development project;

12           2. Compute the limited liability entity tax imposed under KRS 141.0401  
13             including Kentucky gross profits or Kentucky gross receipts from the  
14             reinvestment project or economic development project; and

15           3. Add the amounts computed under subparagraphs 1. and 2. of this  
16             paragraph and, if applicable, subtract the credit permitted by KRS  
17             141.0401(3) from that sum. The resulting amount shall be the net tax for  
18             purposes of this paragraph.

19       (b) 1. Compute the tax due at the applicable tax rates as provided by KRS  
20               141.020 or 141.040 on net income as defined by KRS 141.010(11) or  
21             taxable net income as defined by KRS 141.010(14), excluding net  
22             income attributable to a reinvestment project or economic development  
23             project;

24           2. Using the same method used under paragraph (a)2. of this subsection,  
25             compute the limited liability entity tax imposed under KRS 141.0401,  
26             including Kentucky gross profits or Kentucky gross receipts from the  
27             reinvestment project or economic development project; and

1           3. Add the amounts computed under subparagraphs 1. and 2. of this  
2           paragraph and, if applicable, subtract the credit permitted by KRS  
3           141.0401(3) from that sum. The resulting amount shall be the net tax for  
4           purposes of this paragraph.

5           (c) The tax credit shall be the amount by which the tax computed under paragraph  
6           (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this  
7           subsection; however, the credit shall not exceed the limits set forth in KRS  
8           154.32-070 or 154.34-120, as the case may be.

9       (4) (a) Notwithstanding any other provisions of this chapter, an approved company  
10           which is a pass-through entity not subject to the tax imposed by KRS 141.040  
11           or trust not subject to the tax imposed by KRS 141.040 shall be subject to  
12           income tax on the net income attributable to a reinvestment project or  
13           economic development project at the rates provided in KRS 141.020(2).

14           (b) The amount of the tax credit shall be determined as provided in subsection (3)  
15           of this section. Upon the annual election of the approved company, in lieu of  
16           the tax credit, an amount shall be applied as an estimated tax payment equal to  
17           the tax computed in this section. Any estimated tax payment made pursuant to  
18           this paragraph shall be in satisfaction of the tax liability of the partners,  
19           members, shareholders, or beneficiaries of the pass-through entity or trust, and  
20           shall be paid on behalf of the partners, members, shareholders, or  
21           beneficiaries.

22           (c) The tax credit or estimated payment shall not exceed the limits set forth in  
23           subsection (1) of Section 3 of this Act~~[KRS 154.32-070]~~ or 154.34-120, as  
24           the case may be.

25           (d) If the tax computed in this section exceeds the tax credit, the difference shall  
26           be paid by the pass-through entity or trust at the times provided by KRS  
27           141.160 for filing the returns.

- 1 (e) Any estimated tax payment made by the pass-through entity or trust in  
2 satisfaction of the tax liability of partners, members, shareholders, or  
3 beneficiaries shall not be treated as taxable income subject to Kentucky  
4 income tax by the partner, member, shareholder, or beneficiary.
- 5 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,  
6 the tax credit, and the estimated tax payment determined under subsection (4) of  
7 this section shall be excluded in determining each partner's, member's,  
8 shareholder's, or beneficiary's distributive share of net income or credit of a pass-  
9 through entity or trust.
- 10 (6) If the reinvestment project or economic development project is a totally separate  
11 facility:
- 12 (a) Net income attributable to the project for the purposes of subsections (3), (4),  
13 and (5) of this section shall be determined under the separate accounting  
14 method reflecting only the gross income, deductions, expenses, gains, and  
15 losses allowed under KRS Chapter 141 directly attributable to the facility and  
16 overhead expenses apportioned to the facility; and
- 17 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project  
18 for the purposes of subsection (3) of this section shall be determined under the  
19 separate accounting method reflecting only the Kentucky gross receipts or  
20 Kentucky gross profits directly attributable to the facility.
- 21 (7) If the reinvestment project or economic development project is an expansion to a  
22 previously existing facility:
- 23 (a) Net income attributable to the entire facility shall be determined under the  
24 separate accounting method reflecting only the gross income, deductions,  
25 expenses, gains, and losses allowed under KRS Chapter 141 directly  
26 attributable to the facility and overhead expenses apportioned to the facility,  
27 and the net income attributable to the reinvestment project or economic

1 development project for the purposes of subsections (3), (4), and (5) of this  
2 section shall be determined by apportioning the separate accounting net  
3 income of the entire facility to the reinvestment project or economic  
4 development project by a formula approved by the department; and

5 (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire  
6 facility shall be determined under the separate accounting method reflecting  
7 only the Kentucky gross receipts or Kentucky gross profits directly  
8 attributable to the facility, and Kentucky gross receipts or Kentucky gross  
9 profits attributable to the reinvestment project or economic development  
10 project for the purposes of subsection (3) of this section shall be determined  
11 by apportioning the separate accounting Kentucky gross receipts or Kentucky  
12 gross profits of the entire facility to the reinvestment project or economic  
13 development project by a formula approved by the department.

14 (8) If an approved company can show to the satisfaction of the department that the  
15 nature of the operations and activities of the approved company are such that it is  
16 not practical to use the separate accounting method to determine the net income,  
17 Kentucky gross receipts, or Kentucky gross profits from the facility at which the  
18 reinvestment project or economic development project is located, the approved  
19 company shall determine net income, Kentucky gross receipts, or Kentucky gross  
20 profits from the reinvestment project or economic development project using an  
21 alternative method approved by the department.

22 (9) The department may promulgate administrative regulations and require the filing of  
23 forms designed by the department to reflect the intent of KRS 154.34-010 to  
24 154.34-100 and Subchapter 32 of KRS Chapter 154, and the allowable income tax  
25 credit which an approved company may retain under KRS 154.34-010 to 154.34-  
26 100 or Subchapter 32 of KRS Chapter 154.

27 ➔Section 7. KRS 154.32-100 is amended to read as follows:

By October 1 of each year, and by each October 1 thereafter for as long as the credits are available under Section 4 of this Act and the wage assessments are permitted under KRS 154.32-090, the department shall:

(1) Certify to the authority and the Legislative Research Commission, in the form of an annual report, aggregate tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and aggregate assessments taken during the prior calendar year by approved companies with respect to their economic development projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken tax credits or assessments equal to the total incentives available to the approved company; and

(2) Report to the Legislative Research Commission for each of the credits permitted by Sections 4 and 6 of this Act:

(a) The total number of individual income tax returns filed claiming the credit and the total amount of credit claimed for each taxable year;

(b) The total number of business income tax returns filed claiming the credit and the total amount of credit claimed for each taxable year; and

(c) 1. In the case of a taxpayer other than a corporation, based on ranges of adjusted gross income of no larger than five thousand dollars (\$5,000), the total amount of credit claimed for each adjusted gross income range; and

2. In the case of corporations, based on ranges of net income no larger than fifty thousand dollars (\$50,000), the total amount of credit claimed for each net income range.

➔Section 8. KRS 131.190 is amended to read as follows:

(1)~~[(a)]~~ No present or former commissioner or employee of the department~~[-of Revenue]~~, present or former member of a county board of assessment appeals,

1 present or former property valuation administrator or employee, present or former  
2 secretary or employee of the Finance and Administration Cabinet, former secretary  
3 or employee of the Revenue Cabinet, or any other person, shall intentionally and  
4 without authorization inspect or divulge any information acquired by him of the  
5 affairs of any person, or information regarding the tax schedules, returns, or reports  
6 required to be filed with the department or other proper officer, or any information  
7 produced by a hearing or investigation, insofar as the information may have to do  
8 with the affairs of the person's business.

9 ~~(2)(b)~~ The prohibition established by subsection (1)~~paragraph (a)~~ of this section  
10 shall~~subsection does~~ not extend to:

11 (a)~~(1)~~ Information required in prosecutions for making false reports or returns  
12 of property for taxation, or any other infraction of the tax laws;

13 (b)~~(2)~~ Any matter properly entered upon any assessment record, or in any way  
14 made a matter of public record;

15 (c)~~(3)~~ Furnishing any taxpayer or his properly authorized agent with  
16 information respecting his own return;

17 (d)~~(4)~~ Testimony provided by the commissioner or any employee of the  
18 department~~of Revenue~~ in any court, or the introduction as evidence of  
19 returns or reports filed with the department, in an action for violation of state  
20 or federal tax laws or in any action challenging state or federal tax laws;

21 (e)~~(5)~~ Providing an owner of unmined coal, oil or gas reserves, and other  
22 mineral or energy resources assessed under KRS 132.820~~(1)~~, or owners of  
23 surface land under which the unmined minerals lie, factual information about  
24 the owner's property derived from third-party returns filed for that owner's  
25 property, under the provisions of KRS 132.820~~(2)~~, that is used to determine  
26 the owner's assessment. This information shall be provided to the owner on a  
27 confidential basis, and the owner shall be subject to the penalties provided in

1 KRS 131.990(2). The third-party filer shall be given prior notice of any  
2 disclosure of information to the owner that was provided by the third-party  
3 filer;

4 ~~(f)~~~~[6.]~~ Providing to a third-party purchaser pursuant to an order entered in a  
5 foreclosure action filed in a court of competent jurisdiction, factual  
6 information related to the owner or lessee of coal, oil, gas reserves, or any  
7 other mineral resources assessed under KRS 132.820~~[(4)]~~. The department  
8 may promulgate an administrative regulation establishing a fee schedule for  
9 the provision of the information described in this paragraph~~[subparagraph]~~.  
10 Any fee imposed shall not exceed the greater of the actual cost of providing  
11 the information or ten dollars (\$10);~~[-or]~~

12 ~~(g)~~~~[7.]~~ Providing information to a licensing agency, the Transportation Cabinet,  
13 or the Kentucky Supreme Court under KRS 131.1817;

14 (h) Statistics of gasoline and special fuels gallonage reported to the department  
15 under KRS 138.210 to 138.448;

16 (i) Statistics of crude oil reported to the department under the crude oil excise  
17 tax requirements of KRS Chapter 137;

18 (j) Statistics of natural gas production reported to the department under the  
19 natural resources severance tax requirements of KRS Chapter 143A;

20 (k) Those portions of mine maps submitted by taxpayers to the department  
21 pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the  
22 boundaries of mined-out parcel areas. These electronic maps shall not be  
23 relied upon to determine actual boundaries of mined-out parcel areas.  
24 Property boundaries contained in mine maps required under KRS Chapters  
25 350 and 352 shall not be construed to constitute land surveying or boundary  
26 surveys defined by KRS 322.010 and any administrative regulations;

27 (l) Providing to other state agencies the report, filed with the department by an



1       employer, listing the policy number and the name and address of the  
2       employer's workers' compensation insurance carrier under Section 9 of this  
3       Act;

4       (m) The name and address of a cigarette stamping agent or distributor and the  
5       number of sticks by brand name that have been purchased from a  
6       nonparticipating manufacturer and have been stamped with Kentucky  
7       stamps by that agent or distributor provided by Section 10 of this Act;

8       (n) A list of taxpayers that owe delinquent taxes or fees administered by the  
9       department provided by Section 11 of this Act;

10       (o) Providing any utility gross receipts license tax return information that is  
11       necessary to administer the provisions of KRS 160.613 to 160.617 to  
12       applicable school districts on a confidential basis;

13       (p) Information made available by the department, for official use only and on  
14       a confidential basis, to the proper officer, agency, board, or commission of  
15       this state, any Kentucky city or county, any other state, or the federal  
16       government, under reciprocal agreements whereby the department shall  
17       receive similar or useful information in return; or

18       (q) Providing information to the Legislative Research Commission under:

19               1. KRS 139.519 for purposes of the sales and use tax refund on building  
20               materials used for disaster recovery;

21               2. KRS 141.436 for purposes of the energy efficiency products credits;

22               3. KRS 141.437 for purposes of the ENERGY STAR home and the  
23               ENERGY STAR manufactured home credits;

24               4. Section 13 of this Act for purposes of the distilled spirits credit; or

25               5. Section 4 of this Act for purposes of the Kentucky Business  
26               Investment Program infrastructure credit.

27       ~~(3) [(2) — The commissioner shall make available any information for official use only~~

1       ~~and on a confidential basis to the proper officer, agency, board or commission of~~  
2       ~~this state, any Kentucky county, any Kentucky city, any other state, or the federal~~  
3       ~~government, under reciprocal agreements whereby the department shall receive~~  
4       ~~similar or useful information in return.~~

5       ~~(3) Statistics of tax paid gasoline gallonage reported monthly to the department of~~  
6       ~~Revenue under the gasoline excise tax law may be made public by the department.~~

7       ~~(4)~~ Access to and inspection of information received from the Internal Revenue Service  
8       is for department~~[ of Revenue]~~ use only, and is restricted to tax administration  
9       purposes.~~[ Notwithstanding the provisions of this section to the contrary,]~~  
10      Information received from the Internal Revenue Service shall not be made available  
11      to any other agency of state government, or any county, city, or other state, and shall  
12      not be inspected intentionally and without authorization by any present secretary or  
13      employee of the Finance and Administration Cabinet, commissioner or employee of  
14      the department~~[ of Revenue]~~, or any other person.

15     ~~[(5) Statistics of crude oil as reported to the Department of Revenue under the crude oil~~  
16     ~~excise tax requirements of KRS Chapter 137 and statistics of natural gas production~~  
17     ~~as reported to the Department of Revenue under the natural resources severance tax~~  
18     ~~requirements of KRS Chapter 143A may be made public by the department by~~  
19     ~~release to the Energy and Environment Cabinet, Department for Natural Resources.~~

20     ~~(6) Notwithstanding any provision of law to the contrary, beginning with mine map~~  
21     ~~submissions for the 1989 tax year, the department may make public or divulge only~~  
22     ~~those portions of mine maps submitted by taxpayers to the department pursuant to~~  
23     ~~KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-~~  
24     ~~out parcel areas. These electronic maps shall not be relied upon to determine actual~~  
25     ~~boundaries of mined-out parcel areas. Property boundaries contained in mine maps~~  
26     ~~required under KRS Chapters 350 and 352 shall not be construed to constitute land~~  
27     ~~surveying or boundary surveys as defined by KRS 322.010 and any administrative~~

1       ~~regulations promulgated thereto.~~

2       ~~(7) Notwithstanding any other provision of the Kentucky Revised Statutes, The~~  
3       ~~department may divulge to the applicable school districts on a confidential basis any~~  
4       ~~utility gross receipts license tax return information that is necessary to administer~~  
5       ~~the provisions of KRS 160.613 to 160.617.]~~

6       ➔Section 9. KRS 131.135 is amended to read as follows:

7       ~~[(1)]~~Each employer subject to KRS Chapter 342 shall file annually with the  
8       department~~[of Revenue]~~, in accordance with administrative regulations, a report  
9       providing the policy number and the name and address of the employer's workers'  
10      compensation insurance carrier.}]

11      ~~(2) The report may be made available to other state agencies notwithstanding the~~  
12      ~~confidentiality provisions of KRS 131.190.]~~

13      ➔Section 10. KRS 131.618 is amended to read as follows:

14      (1) ~~[Notwithstanding KRS 131.190, ]~~The commissioner is authorized to disclose to the  
15      Attorney General the name and address of a stamping agent or distributor and the  
16      number of sticks by brand name that have been purchased from a nonparticipating  
17      manufacturer and have been stamped with Kentucky stamps by that agent or  
18      distributor. The Attorney General may share this information with federal, other  
19      state, or local agencies only for the purposes of enforcement of KRS 131.600 to  
20      131.630 or corresponding laws of other states. The Attorney General is further  
21      authorized to disclose to a nonparticipating manufacturer or its importers this  
22      information that has been provided by a stamping agent regarding the purchases  
23      from that nonparticipating manufacturer or its importers. This information provided  
24      by a stamping agent may be used in any enforcement action against the  
25      nonparticipating manufacturer or its importers by the Attorney General.

26      (2) In addition to the information required to be submitted pursuant to KRS 131.608,  
27      131.614, and 131.620, the Attorney General or the commissioner may require a

1 stamping agent, distributor, participating manufacturer, nonparticipating  
2 manufacturer, or a nonparticipating manufacturer's importers to submit any  
3 additional information including but not limited to samples of the packaging or  
4 labeling of each brand family as is necessary to enable the Attorney General to  
5 determine whether the participating manufacturer or the nonparticipating  
6 manufacturer and its importers are in compliance with KRS 131.600 to 131.630.

7 ➔Section 11. KRS 131.650 is amended to read as follows:

8 (1) ~~[Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to~~  
9 ~~the contrary,]~~The department may publish a list or lists of taxpayers that owe  
10 delinquent taxes or fees administered by the department~~[of Revenue]~~, and that meet  
11 the requirements of KRS 131.652.

12 (2) For purposes of this section, a taxpayer may be included on a list if:

- 13 (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the  
14 dates they became due and payable; and  
15 (b) A tax lien or judgment lien has been filed of public record against the taxpayer  
16 before notice is given under KRS 131.654.

17 (3) In the case of listed taxpayers that are business entities, the department~~[of~~  
18 ~~Revenue]~~ may also list the names of responsible persons assessed pursuant to KRS  
19 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not  
20 protected from publication by subsection (2) of this section, and for whom the  
21 requirements of KRS 131.652 are satisfied with regard to the personal assessment.

22 (4) Before any list is published under this section, the department shall document that  
23 each of the conditions for publication as provided in this section has been satisfied,  
24 and that procedures were followed to ensure the accuracy of the list and notice was  
25 given to the affected taxpayers.

26 ➔Section 12. KRS 131.990 is amended to read as follows:

27 (1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board

- 1 of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than  
2 twenty-five dollars (\$25) nor more than five hundred dollars (\$500).
- 3 (2) (a) Any person who violates the intentional unauthorized inspection provisions of  
4 KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or  
5 imprisoned for not more than six (6) months, or both.
- 6 (b) Any person who violates the provisions of KRS 131.190(1) by divulging  
7 confidential taxpayer information shall be fined not more than one thousand  
8 dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- 9 (c) Any person who violates the intentional unauthorized inspection provisions of  
10 KRS 131.190~~(3)~~~~(4)~~ shall be fined not more than one thousand dollars  
11 (\$1,000) or imprisoned for not more than one (1) year, or both.
- 12 (d) Any person who violates the provisions of KRS 131.190~~(3)~~~~(4)~~ by divulging  
13 confidential taxpayer information shall be fined not more than five thousand  
14 dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
- 15 (e) Any present secretary or employee of the Finance and Administration Cabinet,  
16 commissioner or employee of the department, member of a county board of  
17 assessment appeals, property valuation administrator or employee, or any  
18 other person, who violates the provisions of KRS 131.190(1) or ~~(3)~~~~(4)~~ may,  
19 in addition to the penalties imposed under this subsection, be disqualified and  
20 removed from office or employment.
- 21 (3) Any person who willfully fails to comply with the rules and regulations  
22 promulgated by the department for the administration of delinquent tax collections  
23 shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars  
24 (\$1,000).
- 25 (4) Any person who fails to do any act required or does any act forbidden by KRS  
26 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred  
27 dollars (\$500).

- 1 (5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it  
2 is shown to the satisfaction of the department that the failure is due to reasonable  
3 cause, pay a penalty of one-half of one percent (0.5%) of the amount that should  
4 have been remitted under the provisions of KRS 131.155 for each failure to comply.
- 5 (6) (a) Any person or financial institution that fails to comply with the provisions of  
6 KRS 131.672 and 131.674 within ninety (90) days after notification by the  
7 department shall, unless the failure is due to reasonable cause as defined in  
8 KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no  
9 more than five thousand dollars (\$5,000) for each full month of  
10 noncompliance. The fine shall begin on the first day of the month beginning  
11 after the expiration of the ninety (90) days.
- 12 (b) Any financial institution that fails or refuses to comply with the provisions of  
13 KRS 131.672 and 131.674 within one hundred twenty (120) days after the  
14 notification by the department shall, unless the failure is due to reasonable  
15 cause as defined in KRS 131.010, forfeit its right to do business within the  
16 Commonwealth, unless and until the financial institution is in compliance.  
17 Upon notification by the department, the commissioner of the Department of  
18 Financial Institutions shall, as applicable, revoke the authority of the financial  
19 institution or its agents to do business in the Commonwealth.
- 20 (7) Any taxpayer or tax return preparer who fails or refuses to comply with the  
21 provisions of KRS 131.250 or an administrative regulation promulgated under KRS  
22 131.250 shall, unless it is shown to the satisfaction of the department that the failure  
23 is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each  
24 return not filed as required.
- 25 ➔Section 13. KRS 141.389 is amended to read as follows:
- 26 (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each  
27 taxpayer paying the distilled spirits ad valorem tax as follows:

- 1           1.   For taxable years beginning on or after January 1, 2015, and before  
2           December 31, 2015, the credit shall be equal to twenty percent (20%) of  
3           the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
4           timely basis;
- 5           2.   For taxable years beginning on or after January 1, 2016, and before  
6           December 31, 2016, the credit shall be equal to forty percent (40%) of  
7           the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
8           timely basis;
- 9           3.   For taxable years beginning on or after January 1, 2017, and before  
10          December 31, 2017, the credit shall be equal to sixty percent (60%) of  
11          the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
12          timely basis;
- 13          4.   For taxable years beginning on or after January 1, 2018, and before  
14          December 31, 2018, the credit shall be equal to eighty percent (80%) of  
15          the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
16          timely basis; and
- 17          5.   For taxable years beginning on or after January 1, 2019, the credit shall  
18          be equal to one hundred percent (100%) of the tax assessed under KRS  
19          132.160 and paid under KRS 132.180 on a timely basis.
- 20          (b)   The credit shall be applied both to the income tax imposed under KRS  
21          141.020 or 141.040 and to the limited liability entity tax imposed under KRS  
22          141.0401, with the ordering of the credits as provided in KRS 141.0205.
- 23    (2)   The amount of distilled spirits credit allowed under subsection (1) of this section  
24          shall be used only for capital improvements at the premises of the distiller licensed  
25          pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"  
26          means any costs associated with:  
27          (a)   Construction, replacement, or remodeling of warehouses or facilities;

- 1 (b) Purchases of barrels and pallets used for the storage and aging of distilled  
2 spirits in maturing warehouses;
- 3 (c) Acquisition, construction, or installation of equipment for the use in the  
4 manufacture, bottling, or shipment of distilled spirits;
- 5 (d) Addition or replacement of access roads or parking facilities; and
- 6 (e) Construction, replacement, or remodeling of facilities to market or promote  
7 tourism, including but not limited to a visitor's center.
- 8 (3) The distilled spirits credit allowed under subsection (1) of this section:
- 9 (a) May be accumulated for multiple taxable years;
- 10 (b) Shall be claimed on the return of the taxpayer filed for the taxable year during  
11 which the credits were used pursuant to subsection (2) of this section; and
- 12 (c) Shall not include:
- 13 1. Any delinquent tax paid to the Commonwealth; or
- 14 2. Any interest, fees, or penalty paid to the Commonwealth.
- 15 (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital  
16 improvements required by subsection (2) of this section shall be completed  
17 and specifically associated with the credit allowed on the return.
- 18 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital  
19 improvement associated with the credit is sold or otherwise disposed of prior  
20 to the exhaustion of the useful life of the asset for Kentucky depreciation  
21 purposes.
- 22 (c) If the allowed credit is associated with multiple capital improvements, and not  
23 all capital improvements are sold or otherwise disposed of, the distilled spirits  
24 credit shall be prorated based on the cost of the capital improvement sold over  
25 the total cost of all improvements associated with the credit.
- 26 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the  
27 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit



1 through to its members, partners, or shareholders in the same proportion as the  
2 distributive share of income or loss is passed through.

3 (6) The department may promulgate an administrative regulation pursuant to KRS  
4 Chapter 13A to implement the allowable credit under this section, require the filing  
5 of forms designed by the department, and require specific information for the  
6 evaluation of the credit taken by any taxpayer.

7 (7) ~~Notwithstanding KRS 131.190,~~ No later than September 1, 2016, and annually  
8 thereafter, the department shall report to the Interim Joint Committee on  
9 Appropriations and Revenue:

10 (a) The name of each taxpayer taking the credit permitted by subsection (1) of  
11 this section;

12 (b) The amount of credit taken by that taxpayer; and

13 (c) The type of capital improvement made for which the credit is claimed.

14 ➔Section 14. KRS 131.020 is amended to read as follows:

15 (1) The department~~of Revenue~~, headed by a commissioner appointed by the secretary  
16 with the approval of the Governor, shall be organized into the following functional  
17 units:

18 (a) Office of the Commissioner~~of the Department of Revenue~~, which shall  
19 consist of:

20 1. The Division of Special Investigations, headed by a division director  
21 who shall report to the commissioner. The division shall investigate  
22 alleged violations of the tax laws and recommend criminal prosecution  
23 of the laws as warranted; and

24 2. The Division of Taxpayer Ombudsman, headed by a division director  
25 who is appointed by the secretary pursuant to KRS 12.050, and who  
26 shall report to the commissioner. The division shall perform those duties  
27 set out in KRS 131.083;

1 (b) Office of Processing and Enforcement, headed by an executive director who  
2 shall report directly to the commissioner. The office shall be responsible for  
3 processing documents, depositing funds, collecting debt payments, and  
4 coordinating, planning, and implementing a data integrity strategy. The office  
5 shall consist of the:

- 6 1. Division of Operations, which shall be responsible for opening all tax  
7 returns, preparing the returns for data capture, coordinating the data  
8 capture process, depositing receipts, maintaining tax data, and assisting  
9 other state agencies with similar operational aspects as negotiated  
10 between the department and the other agency;
- 11 2. Division of Collections, which shall be responsible for initiating all  
12 collection enforcement activity related to due and owing tax  
13 assessments, including protest resolution, and for assisting other state  
14 agencies with similar collection aspects as negotiated between the  
15 department and the other state agency;
- 16 3. Division of Registration and Data Integrity, which shall be responsible  
17 for registering businesses for tax purposes, ensuring that the data entered  
18 into the department's tax systems is accurate and complete, and assisting  
19 the taxing areas in proper procedures to ensure the accuracy of the data  
20 over time; and
- 21 4. Division of Protest Resolution, which shall be responsible for ensuring  
22 an independent review of tax disputes. The division shall administer the  
23 protest functions for the department from office resolution through court  
24 action;

25 (c) Office of Property Valuation, ~~[- The Office of Property Valuation shall be]~~  
26 headed by an executive director who shall report directly to the commissioner.  
27 The office shall consist of the:

- 1           1. Division of Local Support, which shall be responsible for providing  
2           supervision, assistance, and training to the property valuation  
3           administrators and sheriffs within the Commonwealth;
- 4           2. Division of State Valuation, which shall be responsible for providing  
5           assessments of public service companies and motor vehicles, and  
6           providing assistance to property valuation administrators and sheriffs  
7           with the administration of tangible and omitted property taxes within the  
8           Commonwealth; and
- 9           3. Division of Minerals Taxation and Geographical Information System  
10          Services, which shall be responsible for providing geographical  
11          information system mapping support, ensuring proper filing of severance  
12          tax returns, ensuring consistency of unmined coal assessments, and  
13          gathering and providing data to properly assess minerals to the property  
14          valuation administrators within the Commonwealth;
- 15       (d) Office of Sales and Excise Taxes, headed by an executive director who shall  
16          report directly to the commissioner. The office shall administer all matters  
17          relating to sales and use taxes and miscellaneous excise taxes, including but  
18          not limited to technical tax research, compliance, taxpayer assistance, tax-  
19          specific training, and publications. The office shall consist of the:
  - 20           1. Division of Sales and Use Tax, which shall administer the sales and use  
21           tax; and
  - 22           2. Division of Miscellaneous Taxes, which shall administer various other  
23           taxes, including but not limited to alcoholic beverage taxes; cigarette  
24           enforcement fees, stamps, meters, and taxes; gasoline tax; bank  
25           franchise tax; inheritance and estate tax; insurance premiums and  
26           insurance surcharge taxes; motor vehicle tire fees and usage taxes; and  
27           special fuels taxes;

- 1 (e) Office of Income Taxation, headed by an executive director who shall report  
2 directly to the commissioner. The office shall administer all matters related to  
3 income and corporation license taxes, including technical tax research,  
4 compliance, taxpayer assistance, tax-specific training, and publications. The  
5 office shall consist of the:
- 6 1. Division of Individual Income Tax, which shall administer the following  
7 taxes or returns: individual income, fiduciary, and employer  
8 withholding; and
- 9 2. Division of Corporation Tax, which shall administer the corporation  
10 income tax, corporation license tax, pass-through entity withholding,  
11 and pass-through entity reporting requirements; and
- 12 (f) Office of Field Operations, headed by an executive director who shall report  
13 directly to the commissioner. The office shall manage the regional taxpayer  
14 service centers and the field audit program.
- 15 (2) The functions and duties of the department shall include conducting conferences,  
16 administering taxpayer protests, and settling tax controversies on a fair and  
17 equitable basis, taking into consideration the hazards of litigation to the  
18 Commonwealth of Kentucky and the taxpayer. The mission of the department shall  
19 be to afford an opportunity for taxpayers to have an independent informal review of  
20 the determinations of the audit functions of the department, and to attempt to fairly  
21 and equitably resolve tax controversies at the administrative level.
- 22 (3) The department shall maintain an accounting structure for the one hundred twenty  
23 (120) property valuation administrators' offices across the Commonwealth in order  
24 to facilitate use of the state payroll system and the budgeting process.
- 25 (4) Except as provided in KRS 131.190(3)~~[(4)]~~, the department shall fully cooperate  
26 with and make tax information available as prescribed under KRS 131.190(2)(p) to  
27 the Governor's Office for Economic Analysis as necessary for the office to perform

- 1           the tax administration function established in KRS 42.410.
- 2   (5)   Executive directors and division directors established under this section shall be
- 3           appointed by the secretary with the approval of the Governor.